

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

MISSION PRODUCE, INC.

Employer,

and

RETAIL, WHOSALE AND DEPARTMENT
STORE UNION / UFCW,

Petitioner.

Case No. 10-RC-095843

**RESPONDENT'S EXCEPTIONS TO REPORT ON OBJECTION AND
RECOMMENDATIONS TO THE BOARD**

Pursuant to Section 102.69 of the Rules and Regulations of the National Labor Relations Board, Respondent Mission Produce, Inc. (hereinafter "Mission" or "Respondent"), hereby excepts to the Report on Objection and Recommendations to the Board as follows:

1. The Regional Director erred in failing to find that the processing of the Petition is barred because the National Labor Relations Board ("Board") lacks a quorum. Under the National Labor Relations Act ("NLRA"), all authority is vested in the Board, and while others may act on the Board's behalf by statute or delegation, the Board lacks a quorum and is, and has been, functioning illegally because the President's recess appointments are constitutionally invalid. Therefore, the Board's agents and/or delegees lack authority to act on behalf of the Board. As such, the Petition in this matter was improperly processed, the election improperly held and the results should not be certified and should be dismissed. See Noel Canning v. NLRB et. al., Nos. 112-1115 and 12-1153 (D.C. Cir. Jan. 25, 2013);

New Process Steel, L.P. v. NLRB, 130 S. Ct. 2635, 2636 (2010); Laurel Baye

Healthcare of Lake Lanier, Inc. v. NLRB, 564 F.3d 469 (D.C. Cir. 2009).

This 4th day of March, 2013.

Respectfully submitted,

By:



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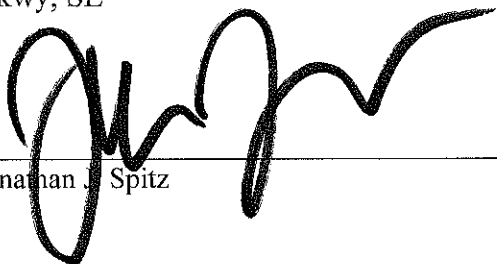
CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2013, I caused the foregoing *Respondent's Exceptions to Report on Objection and Recommendations to the Board* to be filed with the National Labor Relations Board using the CM/ECF system.

I further certify that I caused a copy to be served via electronic mail upon the following:

Mr. Claude T. Harrell
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